

CHAPTER VI

RETIREMENT AND INSURANCE**A.** GENERAL POLICY

1. Heads of DoD Components shall ensure that their eligible **NAFI** employees are afforded the opportunity to participate in retirement and **insurance** programs meeting requirements established in this Chapter and in applicable laws, executive orders, rules, and regulations regardless of whether or not they are referenced in this Manual. These retirement and insurance requirements are designed to serve as minimum acceptable **program** levels. (See paragraph B., below, for exception to minimum levels when providing benefits to other than RFT employees.)

2. No new retirement or insurance plans or changes to existing plans shall exceed the benefits authorized by the Congress for civil service employees **who** are covered by U.S. Office of Personnel Management (**OPM**) rules and regulations concerning employee benefits. Retirement or insurance plans that were in effect on January 1, 1976, and that exceeded the benefits authorized by the Congress for such employees may continue with those benefits. . **Any** and all restrictions on benefits applicable to civil service employees who are covered by U.S. Office of Personnel Management (**OPM**) rules and regulations concerning employee benefits will apply automatically to **NAFI** retirement and insurance plans initiated after the effective date of this Chapter (April 16, 1975), notwithstanding any other provisions of this Chapter.

B. APPLICATION

Unless otherwise required by Federal statutes or specific provision in this Chapter, RFT employees of **NAFIs** who are U.S. citizens, U.S. nationals, or permanent resident aliens of the United States employed in the United States shall be offered, as a minimum, the programs described herein. Heads of Components may offer the same **or** different benefit programs to other than **RFT** employees. In all cases, benefits offered to Federal civil service employees will serve as the ceiling or cap on **NAFI** provided benefit levels as described in A.2. above.

c. SPECIFIC POLICIES

A supplement to the **speci** f ic policies cited herein is contained in Appendix B. This supplement amplifies the policies and outlines procedures.

1. Funding Principles and Fund Reviews

a. Funding. A high degree of fiscal responsibility is essential. Accordingly, Heads of DoD Components shall ensure that all retirement and insurance programs are funded in accordance with sound actuarial, insurance, and accounting principles that will ensure adequate protection of the interests of participants and beneficiaries.

(1) No appropriated funds wi ll be requested or expended in connec-
tion with unemployment insurance, life insurance, medical, retirement, or

INVESTMENT

survivor benefits established or authorized by this Manual. Appropriated funds replenishment or subsidy of ~~nonappropriated funds~~ applied to these purposes is similarly prohibited.

(2) Any contracts, formal agreements, and similar documents used in transactions with insurance carriers, financial or other organizations, unions, or other employee organizations will contain a clear disclaimer relieving appropriated funds of the U.S. Government from any and all expressed or implied financial liability in connection with the retirement and insurance programs.

b. Fund Reviews. The Head of each DoD Component shall ensure that each fund maintained in support of a retirement program is regularly reviewed by one or more qualified actuaries. P.L. 95-595 establishes uniform annual reporting requirements for Federal Government pension plans, including DoD NAFI retirement plans. Heads of DoD Components shall ensure that administrators of NAFI retirement plans comply with the form, manner, and times of filing as required by the OMB, GAO, and the Department of the Treasury. Basically, compliance requires that various financial and actuarial statements be provided annually to OMB not later than 450 days after the last day of the plan year, and Congress not later than 210 days after the last day of the plan year. Information copies of the reports will be forwarded and questions directed to the DoD NAFI Personnel Policy Office.

c. Investment of NAFI Retirement Program Funds and Trust Requirements

(1) All investment use of any retirement funds shall comply with The Basic Fiduciary Rules and all restrictions pertaining to investment of retirement funds as stated in the Joint Explanatory Statement of the Committee of Conference on the Employee Retirement Income Security Act of 1974 (ERISA). (Note: The prohibited transactions restrictions on acquisition of employer securities should not be construed to restrict investment of Federal government securities). In general, a fiduciary is any person who exercises discretionary authority or control over the management of a plan or any authority or control over the management or disposition of plan assets, renders investment advice to a plan for a fee or other direct or indirect compensation, or has the authority or responsibility to do so; or has any discretionary authority or responsibility regarding plan administration, whether or not it is used. In the broadest sense, everyone in the chain of responsibility for NAFI retirement plans and their funds has a fiduciary responsibility for them. However, to identify individuals who can be held personally responsible (pecuniarily liable) for losses suffered by a plan or its beneficiaries, the concept of fiduciary responsibility takes on a much narrower application; and each component's regulations shall identify the positions that fall into the category.

(2) Investments of retirement funds may be made but not limited to the following:

(a) Deposits or securities authorized by paragraph J.2.b. of (DoDI 7000.12) that provide the necessary liquidity for the retirement plan.

(1) No appropriated funds will be requested or expended in connection with unemployment insurance, life insurance, medical, retirement, or

(b) Instruments of the private sector such as common and preferred stocks, corporate and municipal bonds' (generally minimum investment grade), options, and real estate.

(3) Fiduciaries shall diversify plan assets to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so. It is not intended that a more stringent standard of prudence be established with the use of the term "clearly prudent." Instead, by using this term it is intended that in an action for plan losses based on breach of the diversification requirement, the plaintiff's initial burden shall be to demonstrate that there has been a failure to diversify. The defendant then is to have the burden of demonstrating that this failure to diversify was prudent. ERISA places these relative burdens on the parties in this matter, because the basic policy is to require diversification, and if diversification on its face does not exist, then the burden of justifying failure to follow general policy should be on the fiduciary who engages in this conduct. Ordinarily the fiduciary should not invest the whole or an unduly large portion of the property in one type of security or in various types of securities dependent upon the success of one enterprise or upon conditions in one locality, since the effect is to increase the risk of large losses. The degree of investment concentration **that** would violate this requirement to diversify cannot be stated as a fixed percentage, because a prudent fiduciary must consider the facts and circumstances of each case. The factors to be considered include:

- (a) The purpose of the plan.
- (b) The amount of the plan's real assets.
- (c) Financial and industrial conditions.
- (d) The type of investment, whether mortgages, bonds, or shares of stock or otherwise.
- (e) Distribution as a geographic location.
- (f) Distribution among industries.
- (g) The dates of maturity.

(4) Retirement plan assets including asset earnings must be held in trust and legally separated from all other NAFI assets for the exclusive benefit of the plan participants and their beneficiaries.

d. Investment Rate of Return Calculation Requirement. (Note: Refer to DoDI 7000012, "Financial Management of MWR Activities" for more information.)

(1) The retirement funds will compute a time-weighted rate of return each quarter using a plan year (which will usually be calendar year). A calendar year-to-date time-weighted rate of return, e.g., 1 January - 30 June) will be included if possible. However, an annual time weighted rate of return is required. Retirement funds are not required to submit data based on a fiscal year beginning 1 October. DoD Components will indicate the particular commercial firm used to compute internally the formula used.

(2) In addition to the requirements stated in paragraph K.4 of DoDI 7000.12, retirement funds will include the following actuarial assumptions in their quarterly summary of data: estimated rate of return, estimated salary increases, estimate of inflation, percent of payroll contributed by both employer and employee (include Social Security contributions if used to compute benefits). If a change in any of these assumptions has occurred since the previous quarter, the changes should be noted and explained. The annual actuarial valuation (which is based on a plan year) will also include the present value of assets, benefits (both with and without salary increases), and the net value of the assets. If the net value of the assets is a negative number (i.e., an unfunded liability), then the estimated date when this negative net asset is eliminated will be included (e.g., 31 December 2000) as well as the percent of employer's payroll needed to eliminate this unfunded liability.

(3) All rates for return should be completed not later than 60 days after the end of a particular quarter. The rates of return calculations will start with the first quarter beginning after this instruction has been officially approved. The initial year-to-date data will begin with the same beginning quarter. The initial year-to-date figures will be superseded when a normal year has begun. Each DoD Component will maintain the rates of return calculations for presentation at the annual DoD NAF Review of Investment Management as required by DoDI 7000.12.

2. Social Security. In accordance with 42 U.S.C. 410, NAFI employees (including off-duty military enlisted employees) are provided **Social Security** coverage.

3. Retirement

a. Retirement Coverage. Heads of DoD Components shall provide retirement coverage which will be considered together with the benefits provided by the Federal Old Age Survivors and Disability Insurance Benefits, 42 U.S.C. 410 et seq.

b. Credited Service. Credited NAFI employee service for retirement will include all **NAFI** service for which employee contributions, deposits, or redeposits were made.

(1) Where the Head of a DoD Component elects to recognize all or part of other previous periods of NAFI service within that Component, credit will be given on a retroactive basis as retroactive credits.

(2) Service in any position paid from appropriated funds, except for honorable active U.S. military service described in paragraph A.2. of Appendix B, is not creditable for NAFI retirement purposes. The basis on which total credited **NAFI** employee service will be determined is contained in Appendix B.

c. Retirement Eligibility

(1) An employee's normal retirement date is the 1st day of the month that falls on or follows the employee's 62nd birthday. However, the

employee must have at least 5 years **of** credited service to qualify for an annuity including the employer's contribution.

(2) Heads of DoD Components may allow employees to retire earlier on a reduced annuity basis after attaining age 52, and completing 5 years or more of credited service.

d. Contributions. Heads of DoD Components will determine the rate of employee contribution to the retirement program.

e. Retention of Accrued Credited Service for Retirement Annuity Purposes. When an eligible employee who is participating in a retirement plan terminates employment and is employed by another NAFI within 90 days, and the gaining NAFI offers a different retirement plan, the employee may carry forward his or her credited service accrued for retirement annuity purposes with the prior **NAFI**. The feasibility of continuing this "portability" provision shall be reviewed periodically by the DoD NAP Retirement and Insurance Committee. When the DoD Component **NAFI's** retirement plan includes a provision for disability annuity, the employee shall fulfill the gaining **NAFI's** own credited service vesting requirements for disability annuity prior to becoming eligible for that annuity. Complete policy and procedures are stated in Appendix B.

4. Workers' Compensation Benefits

a. Longshoremen's and Harbor Workers' Compensation Act. Civilian employees of **NAFIs** shall be provided compensation benefits in accordance with the provisions of 5 **U.S.C. 8171**. (Off-duty enlisted personnel employed by **NAFIs** are not civilian employees for the purposes of this Act.)

b. Coordination with other Benefits. Retirement or disability annuities shall be offset by the amount of workmen's compensation indemnity benefits payable. **Any** workers' compensation income received by a survivor annuitant derived from "on-the-job" incurred disease or injury to the employee shall also be used as an offset against the survivor annuity payable under the retirement plan.

5. Unemployment Benefits

a. Basis for payment. Under authority of the Unemployment **Compensation** for Federal Civilian Employees (**UCFE**) law (5 **U.S.C.** Chapter 85 and 20 **CFR** 609), the Secretary of Labor, on behalf of the United States, has entered into agreements with all the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands. These agreements provide that benefits will be paid by a state to any unemployed Federal civilian employee whose wages have been assigned to that State in which the employee had his or her last official duty station, in the same amount and subject to the same conditions as if the Federal civilian service and wages had been included as employment and wages under the employment insurance law of the State involved.

b. Charge to employing **NAFI**. Heads of DoD Components should be aware that they have to absorb the cost of paying unemployment benefits to Federal civilian NAFI employees. Thus, it is very important "that each NAFI become conscious of its responsibility to safeguard, through good management

practices, NAFI funds by implementing procedures to reduce improper unemployment benefit payments. NAFI ability to provide State agencies with timely, accurate, and complete wage and separation information precludes adverse eligibility decisions from being made and avoids improper payment of benefits and charges to NAFI. Heads of DoD Components may further curtail unwarranted payment of benefits by appealing State decisions to pay unemployment benefits to former employees whom the NAFI believes are not entitled to such payments. This is especially true in situations when former employees were removed for misconduct, resigned voluntarily, or refused a suitable job offer. Thus, Heads of DoD Components should be aware that if an ineligible individual, including a retiree, receives improper payments, the former employer is charged for these costs, in addition to the costs charged to it for warranted payments. When additional or corrective information is provided to the States by NAFIs, redeterminations are made only when permitted under the appropriate State law.

6. Group Insurance

a. Coverage. Group insurance is designated to provide the broadest coverage against unforeseen events to NAFI employees and their dependents. Hence, Heads of DoD Components shall assure that all their eligible NAFI employees have the opportunity to participate in group insurance plans meeting the requirements established in this Chapter.

b. Voluntary Participation. Employee participation in group insurance shall be voluntary. NAFI employees who, are eligible shall be permitted to elect not to be covered.

c. Group Insurance Benefits

(1) The following group insurance benefits will be made available to all eligible employees:

(a) Life Insurance

(b) Accidental Death and Dismemberment

(c) Comprehensive Medical Expense

(d) Life and Medical benefits for eligible retired employees.

(2) The basic provisions for each of these benefits are set forth in Appendix B.

d. Retention of Group Insurance Rights. When RFT DoD NAFI employees participating in a NAFI Group Insurance Plan are transferred by reason of a functional transfer, and the gaining NAFI offers a different group insurance plan, such employees are entitled to transfer of certain group insurance participating rights, subject to the provisions and limitations of the gaining NAFI plan. These rights are limited to:

(1) Participation in those portions of the gaining NAFI plan that are counterparts of the losing NAFI plan in which the employees and his or her dependents were participating on the date immediately prior to the date of

transfer. To exercise this right, however, the employee must file for similar coverage within 1 month of the date of transfer. In this event, coverage will become effective as of the date of transfer or, if later, as of the date the application for it is signed. To **enroll** in any counterpart portions of the gaining NAFI plan which the transferred employee or his or her dependents were not enrolled in the losing NAFI plan, insurability rules applicable to other employees of the gaining NAFI will apply.

(2) Credit for those periods of time the employee was a participant in those counterpart portions of the losing NAFI group insurance plan that establishes eligibility for retired employee life or medical, or both, coverage in the gaining NAFI plan.

e. Funding. Costs for group insurance benefits will be shared between the employer and the employee. See Appendix B. for policy concerning cost to eligible retired employees.

7. Health Maintenance Organizations. In compliance with P.L. 97-35, which amended the Health Maintenance Organization (HMO) Act to include **NAFIs** within the definition of the term "employer," Heads of DoD Components shall provide eligible NAF employees the option of membership in qualified HMOS. In compliance with 42 U.S.C. 300e-9, DoD Components must comply with regulations prescribed by the Secretary of the Department of Health and Human Services concerning employer obligations under the HMO Act.

8. Coordination

a. To effect coordination among the retirement and insurance programs of the various DoD Components and to achieve a degree of uniformity, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) (**DASD(CPP)**) shall appoint a working committee composed of specialists in the NAFI insurance and retirement areas from the DoD Components. The working committee shall review and study all changes to the retirement and insurance provisions of this Manual that are under consideration and make its recommendations. This committee shall meet at the call of the DASD (**CPP**) to:

(1) Share information;

(2) Suggest target dates for implementation of certain aspects of the provisions of this Chapter;

(3) Review NAFI retirement and insurance programs of DoD Components;

(4) Recommend to the **ASD (FM&P)** any changes in DoD policy on NAFI employee retirement and insurance programs; and

(5) Recommend procedures for the transfer of NAFI retirement credits.

b. The working committee chair will coordinate recommendations developed by this committee with the **DoD NAF personnel Policy Committee** prior to forwarding such recommendations to the DASD (**CPP**).